IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9460 of 2000
AND
SPECIAL CIVIL APPLICATION NO. 9898 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GULAM RASUL ABDULLAH LESWALA

Versus

SPECIAL LAND ACQUISTION OFFICER

Appearance:
MR KK TRIVEDI for Petitioners
MR UMESH TRIVEDI, ld.AGP for respondents nos.1 to 4.
MR PRASHANT G DESAI for respondent no.5.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 09/01/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

These two Special Civil Applications are based on identical facts and involve common questions of law with regard to the challenge to the notifications issued under Sec.4 and 6 of the Land Acquisition Act, 1894 and therefore, we propose to decide both these Special Civil Applications by this common judgment and order.

2. The petitioners, 11 in number, in Special Civil Application No.9460 of 2000 claim to be the owners and interested persons in the lands falling in Ward No.4, popularly known as "Mochini Chawl" abutting the Tower Road, near Commerce House, Surat. The City Survey Numbers and areas of the lands have been stated in para 3.1 of the petition.

The petitioners, 18 in number, in Special Civil Application No.9898 of 2000 also claim to be the owners/tenants and interested persons in the lands falling in Ward No.4, popularly known as "Mochini Chawl" abutting the Tower Road, Near Commerce House, Surat. The City Survey Numbers and areas of the said lands have been given in para 3.1 of the Special Civil Application.

3. For the purpose of arguing these matters, learned Counsel for both the sides have made a pointed reference to the pleadings and documents as are available in Special Civil Application No. 9898 of 2000 and therefore, reference in this judgment to the pleadings and documents are made with reference to Special Civil Application No.9898 of 2000.

4. A notification dated 17th June 1999 under Sec.4 of the Land Acquisition Act was published in the daily newspaper namely, "Sandesh" (in Gujarati) on 4th July 1999 which is published from Surat and thereby the lands as mentioned in the Schedule therewith were sought to be acquired for a public purpose. This notification was issued under the signatures of one Shri M.B.Patel, Collector (Coordination), Surat and Shri R.M.Patel, Special Land Acquisition Officer, Branch No.4, Surat. As per this notification, it appeared to the District Collector of Surat that the lands mentioned in the Schedule were required for the District Centre to be used by the Municipal Corporation, Surat and the State Government was of the opinion that these lands were required for the purpose as aforesaid as is obvious from the reading of the contents of Annexure.B enclosed with the petition at page no.33. By this notification,

objections were invited from all concerned. This notification was also published in Gujarat Government Gazette of Sept.30, 1999 - Part-I-B. After the publication of this notification in the newspaper, the petitioners filed their objections dated 14th July 1999 on 22nd July 1999 before the Special Land Acquisition Officer. The Special Land Acquisition Officer issued the notice of hearing date on 28th July 1999 under Sec.5(A) of the Act fixing the date of hearing on 11th Aug.1999. The petitioners' case is that they did remain present on 11th Aug.1999 but the Special Land Acquisition Officer was said to be out of station and no hearing took place on 11th Aug.1999. It is also the case of the petitioners that they filed objections before the Special Land Acquisition Officer, i.e. respondent no.1 herein and the District Collector, Surat, i.e. respondent no.3 herein on 17th Sept.1999 and after the publication of the notification in the Official Gazette on 30th Sept.1999 as aforesaid, the notification under Sec.6 was published on 9th Aug.2000 in the daily newspaper, "Gujarat Samachar" dated 9th Aug.2000.

5. Both these Special Civil Applications challenging the aforesaid notifications under Sec.4 and 6 were filed before this Court in Sept.2000 and in both these petitions the notice was issued by this Court. In Special Civil Application No.9460 of 2000, the notice was made returnable on 20th Sept.2999 and in Special Civil Application No.9898 of 2000, the notice was made returnable on 4th Oct.2000.

6. An affidavit-in-reply dated 4th Dec.2000 has been filed on behalf of the Special Land Acquisition Officer, respondent no.1 in each of these two matters and a rejoinder to the affidavit-in-reply dated 7th Jan.2001 has been filed by the petitioners in each of these two matters.

7. The claim of the petitioners has been sought to be traversed by the respondents through the affidavit-in-reply and it has been stated in para 3 of the affidavit-in-reply that Sec.4 notification was approved by the Addl.Collector on 17th June 1999 and it was published in two local newspapers, namely, "Sandesh" on 4th July 1999 and in "Nav Nirman" on 3rd July 1999 and was also published in the Government Gazette on 30th Sept.1999 (in Gazette No.39 on page nos.1033 to 1035). It is also stated that the same had also been displayed on the notice board of the Mamlatdar's office on 8th July 1999 and at the conspicuous place on 8th July 1999 and the objections were invited from the respective parties.

It has been further stated that ample opportunity was given for filing objections on 11th Aug.1999, 20th Aug.1999 and 17th Sept.1999. It is stated in this affidavit-in-reply that the petitioners remained present and gave an application dated 17th Sept.1999 and submitted their reply. The copy of this reply has been annexed with this affidavit-in-reply as Annexure.I. It has been categorically stated that the petitioners were given ample opportunity on three occasions and they were personally heard. The application dated 14th July 1999 raising objections was received vide letter dated 28th July 1999 and the petitioners were informed to remain present on 11th Aug.1999 for hearing the objections and it has been stated that on 11th Aug.1999, one Shri Babubhai R.Solanki and other petitioners along with interested persons gave application for long adjournment and thereafter they were given the next date as 20th Aug.1999 on their request. On 20th Aug.1999, the petitioners did not remain present but other interested persons did remain present and they again asked for adjournment and were given the next date of hearing as 17th Sept.1999 and their signatures to that effect were obtained in the proceedings. A copy of the written consent with regard to the date of 17th Sept.1999 has been enclosed with this affidavit-in-reply as Annexure.II. On 17th Sept.1999, the interested persons did remain present and the replies were taken, the rojkam to that effect was made for the purpose of the proceedings under Sec.4(1) of the Act. The main objection as per the written reply was with regard to the alternative arrangement for running their business, employment, ownership, rights etc. but the same were not found to be in public interest and therefore the notification under Sec.6 was issued by the Revenue Department on 20th July 2000 and after issuing the necessary circulars the same was published in daily newspaper, "Gujarat Samachar" and "Nav Nirman" on 9th Aug.2000 and also in the Government Gazette on 20th July 2000. Whereas a grievance was raised that the notification had not been signed, it has been clarified that there were several notifications under Sec.4 and 6 and therefore, the endorsement and signatures with designation were procured in token of the same and it was explained with reference to letter dated 19th Sept.2000 of the Government Press, Baroda, that as and when there are more than one notifications published in the same Gazette, the signatures of the concerned Officer are appended with designation only on the last notification and it is clear that the signatures had been appended on the last notification, i.e. notification for village Sabargam, Tal. Choriyasi. A copy of such letter to that

effect has been placed on record as Annexure.IV with the affidavit-in-reply. It has also been stated in this affidavit-in-reply that Sec.4 notification had been approved by the Collector, Surat on 17th July 1999 and was forwarded on 18th Sept.1999 vide letter No.Land Acquisition - WS.Surat-2049-99 to the Manager, Government Press, Baroda and therefore Sec.4 notification was published and the same is reflected through letter dated 19th Sept.2000 of the Government Press, Baroda and hence the notification under Sec.4 was legal and valid. It has also been stated in para 7 of this affidavit-in-reply dated 4th Dec.2000 that as per the Government Resolution dated 12th Aug.1982, it is clearly revealed that the Collector may cause such notification published and in absence of any objection under Sec.5(a), the final notification can also be published. The learned Asstt.Govt. Pleader has submitted that both these notifications are just and legal and he has also submitted with reference to Sec.77 and 78 of the Bombay Provincial Municipal Corporations Act, 1949 that the lands in question were required for the purpose of District Centre of the Municipal Corporation of Surat and the lands could be sought to be acquired with the approval of the State Government at the instance of the Municipal Corporation for the public purpose of establishing the Municipal Corporation's District Centre in Surat and the lands in question could be acquired for the public purpose by the State Government in exercise of the right, of course, after following the procedure for acquisition. It is the case of the respondents nos.1 to 4 and respondent no.5 represented through Mr.Prashant Desai that the lands have been acquired at the instance of the Municipal Corporation for the purpose of establishing District Centre as a public purpose and there is nothing to show that the procedure under the Act was vitiated or that there is any infirmity, factual or legal, in the matter of issue of the notifications as above.

8. Mr.K.K.Trivedi, learned Counsel for the petitioners has submitted that the Addl.Collector had no jurisdiction to issue such notification and it could be issued only by an Officer not below the rank of Collector.

9. While considering this contention raised by Mr.K.K.Trivedi, we may straightway make reference to Sec.3(c), 4 and 52-A(2) of the Land Acquisition Act, 1894. The Sections as aforesaid are reproduced as under:

"3. Definitions.-- In this Act, unless there is something repugnant in the subject or

context,--

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(c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act."

"4. Publication of preliminary notification and powers of officers thereupon.-- (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,--

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and

where otherwise the survey cannot be

completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so."

"52-A. Delegation.--(1)*****

(2) The State Government may, by notification in the Official Gazette, direct that the powers exercisable by it under this Act, except the power to make rules under Section 55, shall, in such circumstances under such notification, be exercisable also by an officer subordinate to it not below the rank of a Collector."

The scheme of the Act clearly shows that under Sec.4 when it appears to the appropriate Government that the land is needed or likely to be needed for a public purpose, the notification in this regard is required to be published in the Official Gazette and in two daily newspapers circulating in the locality and such public notices caused to be published by the Collector in full or the substance thereof and it is also required to be given at convenient places in the said locality. Therefore, once it appears to the Government that a particular land is needed for a public purpose or may be needed for a public purpose, the Collector has simply to cause the publication of the public notice. Therefore, primarily it is the Government which decides as to whether the land is required for a public purpose and thereupon the notice is published by the Collector. Under Sec.52-A(1) as introduced by the State amendment dated 15th Aug.1965, the Collector may, subject to the general or special orders of the State Government, delegate any of his powers or functions under this Act to any officer not below the rank of a Mamlatdar or to a Land Acquisition Officer specially appointed by the State Government in this behalf and under Sec.52-A(2), the State Government may, by notification in the Official Gazette, direct that the powers exercisable by it under this Act, except the power to make rules under Section 55, shall, in such circumstances under such notification, be exercisable also by an officer subordinate to it not below the rank

of a Collector. The reading of the notification under Sec.4 in the present case, makes it clear that the decision that the lands in question were required for a public purpose at the instance of the Municipal Corporation for the District Centre of the Municipal Corporation was of the State Government and the Collector has caused the publication of such notification. According to Sec.52-A(2), any officer not below the rank of the Collector can also exercise the powers of the State Government for the purpose of acquisition of the lands. The contents of the notification show that it appeared to the Collector that the lands were required for the public purpose and the later part of the same notification as was published in the newspaper dated 4th July 1999 also shows that the Government was also of the opinion that it was required for the public purpose and thus it cannot be said that the decision that the lands in question were required for public purpose had been taken by an officer below the rank of Collector. Merely because this notification has been signed by the Addl.Collector, the argument as has been raised by Mr.K.K.Trivedi that it is in violation of Sec.52-A(2), in our opinion, has no factual basis. The Addl.Collector has only caused the publication of the notification and it cannot be said that the decision to acquire the lands for public purpose had been taken by the Addl.Collector. Besides this, under Sec.3(c), the expression 'Collector' means the Collector of a District and includes a Dy.Commissioner and any officer specially appointed by the appropriate Government to perform the functions of the Collector under this Act and it is not in dispute that the Addl.Collector was such an officer within the meaning of Sec.3(c). Thus, we find that there is no violation of any of the provisions of the Act either for the purpose of taking the decision for acquiring the lands for public purpose or for the purpose of causing the publication of the notification. Merely because the notification is signed by the Addl.Collector, it does not vitiate the notification and does not amount to violation of any of the provisions of Sec.4 or Sec.52-A of the Land Acquisition Act.

9. Learned Counsel for the petitioners then argued that the notification was first published in the newspaper and thereafter it was published in the Gazette and thus, a reverse order has been followed. We do not find that there is any such requirement under Sec.4 that the publication of the notification must follow in the order of first publication in the Gazette and thereafter in the newspaper. The reading of Sec.4 makes it clear that the requirement is that it must be published in the

Official Gazette as well as in two newspapers and also at convenient places in the locality. That does not mean that merely because the mention of the publication of the Gazette is mentioned in the earlier part of Sec.4 and causing the public notice in the later part should necessarily mean that in the point of time the notification must be published first in the Gazette and thereafter in the newspaper. The whole object of Sec.4 is that the concerned party and interested persons must know that their lands are sought to be acquired for a public purpose so that they can file their objections and therefore the legislature has provided for publication of such notifications in the Gazette as well as in the two local newspapers out of which one has to be in the regional language and also cause the public notice of the substance of such notification at conspicuous place in the concerned locality. In the facts of the present case, we find that after the opinion had been taken that the lands in question were required for a public purpose at the level of the Collector and the State Government, the notification was issued under the signatures of the Addl. Collector and all the modes of publication have been fully complied with inasmuch as it has been published in two daily newspapers including one newspaper in regional language and it is clear from the affidavit-in-reply that the public notice was also given at conspicuous places in the concerned locality and the notification was also published in the Government Gazette dated 30th Sept.1999, the copy of which is already on record. The signing of the notifications by the Collector and the Special Land Acquisition Officer does not vitiate the notifications in view of the provisions of Sec.3(c) of the Act nor the publication of the notifications in the Gazette at a point of time later on than its publication in the newspaper vitiates the validity of the notifications under Sec.4.

10. The other limb of the argument as was raised by Mr.K.K.Trivedi for the petitioners that the Addl.Collector had no jurisdiction to issue such notification is devoid of any force in the facts of the present case for the simple reason that, in fact the author of the notification is the Collector and the Addl.Collector has only signed the notification and caused its publication. In this background, yet another contention which has been raised that there should have been a fresh delegation in favour of the Addl.Collector also does not survive and the same is hereby rejected.

11. Mr.K.K.Trivedi then argued that the purpose for which the lands were sought to be acquired as was

mentioned in the notifications was wholly vague inasmuch as all that was mentioned in the notifications was the "District Centre" for the Municipal Corporation and he submits that this term was wholly vague and the land owners who are poor and illiterate persons could not comprehend the actual import of the word, 'District Centre' and thus the actual public purpose was not made clear in the notifications under Sec.4. In support of his argument, he has placed reliance on a decision of the Supreme Court in the case of Madhya Pradesh Housing Board v. Mohd. Shafi and ors., reported in 1992(2) SCC 168 and a pointed reference was made to para 8 and 14 of this judgment. In that case before the Supreme Court, in the Schedule in the notification in Column 6 while giving the details of public purpose, all that was mentioned was the word, 'residential' and the Supreme Court found that it was hopelessly vague and conveyed no idea about the purpose of acquisition rendering the notification as invalid in law. However, in the instant case, we find that the public purpose as mentioned in the notifications is 'District Centre' for the Municipal Corporation. To say that the lands as required for establishing a District Centre for the Municipal Corporation cannot be said to be vague term as against the word, 'residential' as was under consideration before the Supreme Court. The word, 'residential' may have many implications; it may also provide for residential colonies and that may not constitute a case of public purpose. Whereas a District Centre for Municipal Corporation is certainly a public purpose and by this time, the word, 'District Centre' for local bodies like the Municipal Corporations has acquired a definite meaning, i.e. a Centre for the utility services to be rendered to the members of the society and such District Centres for Municipal Corporations may provide for banking services, for post offices and other utility services necessary for the residents in that area. Besides this, it has been submitted by the learned Asstt. Govt. Pleader as well as Mr.Prashant Desai appearing for the Municipal Corporation that it is a case in which the lands in question were sought to be acquired by the State Government at the instance of the Municipal Corporation. A reference was made to Sec.78 of the Bombay Provincial Municipal Corporations Act which is reproduced as under:

"78. Procedure when immovable property cannot be acquired by agreement.

(1) Whenever the Commissioner is unable under Section 77 to acquire by agreement any immovable property or any easement affecting any immovable

property vested in the Corporation or whenever any immovable property or any easement affecting any immovable property vested in the Corporation is required for the purposes of this Act, the State Government may, in its discretion, upon the application of the Commissioner, made with the approval of the Standing Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (1 of 1894).

(2) Whenever an application is made under sub-section (1) for the acquisition of land for the purpose of providing a new street or for widening or improving an existing street it shall be lawful for the Commissioner to apply for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

(3) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Commissioner and thereupon the said property shall vest in the Corporation."

Thus when the Municipal Corporation fails to acquire a land through negotiations, it is open for the Municipal Corporation to request the State Government for acquiring the land and in such cases when the State Government seeks to acquire the land for a local body like the Municipal Corporation, it is definitely for a public purpose because it is essentially required for the Municipal Corporation and the Municipal Corporation has to put it to use for public and therefore it is certainly a case of seeking to acquire the land for a public purpose. Reliance has also been placed in this regard by Mr.Prashant Desai on a Division Bench decision of this Court in the case of Kanaiyalal Maneklal Chinai and ors. v. The State of Gujarat and ors., reported in (1966) 7 GLR 717 in which it has been held in para 19 that Sec.78 of the Bombay Provincial Municipal Corporations Act

empowers the Municipal Commissioner to move the State Government to acquire any immovable property in two cases, either when the Commissioner is unable to acquire the immovable property by agreement under Sec.77 or the immovable property is required for the purpose of the Municipal Act and when the Commissioner moves the State Government in the manner prescribed in the section, the State Government is given the power to adopt proceedings for acquisition of the immovable property as if the immovable property was land needed for a public purpose. This power conferred under Sec.78 is clearly an additional power which can be exercised by the State Government when moved by the Municipal Commissioners with the approval of the Standing Committee in either of the cases set out in the Section. Where the Government proceeds under Sec.8, it is not necessary for the State Government to satisfy itself that the immovable property is required for a public purpose nor is it necessary for the State Government to comply with the requirements of Part VII of the Land Acquisition Act; all that is required is that the conditions of Sec.78 must be satisfied and if they are satisfied, the machinery of the Land Acquisition Act can be set in motion and the State Government can proceed to acquire the immovable property as if it were land needed for a public purpose. The power conferred on the State Government under Sec.78 is, therefore, far from being a limitation on the power of the State Government under Sec.6, an extension of that power which can be availed of where the conditions specified in Sec.78 are fulfilled. It has also been observed by the Division Bench that apart from the consideration, it would be contrary to all canons of construction to read Sec.78 of the Municipal Act as curtailing the wide power of the State Government under Sec.6 of the Land Acquisition Act. Therefore, in our considered opinion, in the facts of the present case, the mention of the public purpose as District Centre for the Municipal Corporation, cannot be said to be vague term as was under consideration before the Supreme Court in the case of Madhya Pradesh Housing Board (supra). The argument of Mr.K.K.Trivedi that the Bombay Provincial Municipal Corporations Act is a State Act and therefore, it cannot have an overriding effect on the Land Acquisition Act which is a Central Act, is not at all tenable for the simple reason that there is no question of any overriding effect of the Bombay Provincial Municipal Corporations Act over the Land Acquisition Act. The provisions of Sec.78 of the Bombay Provincial Municipal Corporations Act only contemplate as to when the State Government can be made to proceed to acquire a land for the purpose of a local body like the Municipal

Corporation and that is only a part of the procedure for the purpose of acquiring the land by the State Government for the Municipal Corporation. Thus, the argument that the State Act cannot have an overriding effect over a Central Act is not available and does not arise in the facts of the present case. The same is therefore rejected.

12. Learned Counsel for the petitioners has also cited before us a Division Bench decision of the Karnataka High Court in the case of Kanaka Gruha Nirmana Sahakara Sangha v. Kota Srinivasa Murthy, reported in 1998 (1) Land Acquisition Laws 344. In this case, it has been held that the word, 'appears' used in Section 4 of the Act would mean 'seems', 'probable', 'necessary' and 'has reason to believe' and the word, 'approval' means 'to show', 'demonstrate', 'confirm', 'sanction' and 'ratify'. In the context of the word, 'appears' as used in sub-Section (1) of Section 4 of the Act would be equivalence of the word 'satisfy' which means 'to give enough to', 'to be enough for', 'to fulfil the conditions of', 'to meet the requirements of', 'to free from doubt', 'to convince'. Having explained the meaning of the word 'appears' as above, the Division Bench of the Karnataka High Court has held that it is evident that before initiating action for the purpose of acquisition, the Appropriate Government has to record its approval and only after such an 'approval' within the meaning of Section 3(f)(vi) of the Act or 'satisfaction' within the meaning of Section 6(1) of the Act is recorded by the Appropriate Government the follow up action of publication of preliminary notification, hearing of objections and declaration of land being required for public purpose, etc. as required under Part II of the Act shall be initiated and concluded. We have already observed in the earlier part of this order on the basis of the reading of the notifications that the Government in this case had acted at the instance of the Municipal Corporation and only after the Government had found that the lands were required for the public purpose of establishing District Centre for the Municipal Corporation that the notifications were issued. There cannot be any dispute with the meaning of the word, 'appears' as has been explained by the Karnataka High Court, but we find that in the instant case, the Government itself had formed an opinion and the notifications refer to the State Government as well as the Collector and there is no violation of any of the provisions of the Act, whether Sec. 4 or Sec. 52-A. A conjoint reading of Sec.4 with Sec.3 and 52-A makes it clear that the impugned notifications do not suffer from

any infirmity. Learned Counsel for the petitioners has cited before us a decision of the Supreme Court in the case of Abdul Hussain Tayabali v. The State of Gujarat and ors., reported in AIR 1968 SC 432. On the basis of this decision, it has been argued that once Sec.52-A(2) speaks about an officer not below the rank of Collector, Sec.3(c) cannot be called in aid so as to take the Addl. Collector as an officer appointed by the Appropriate Government to perform the functions of the Collector under this Act. We have already held that in fact the Collector himself has exercised the powers with regard to the acquisition of the lands and the Addl.Collector has only caused the publication of the notifications and therefore, even if Sec.3(c) is not applied and if Sec.3(c) is not taken aid of, it is very clear in the facts of this case that the Collector himself has exercised this power and it is not the case of the petitioners herein that the State Government had not authorised the Collector to exercise such powers. Sec.52-A(2) provides in clear terms that the State Government may, by notification in the official Gazette, direct that the powers exercisable by it under this Act, except the powers to make rules under Sec.55, shall, in such circumstances and under such conditions, if any, as may be specified in such notification be exercisable also by an officer subordinate to it not below the rank of a Collector. In this view of the matter, this decision is of no avail to the petitioners and it does not advance any fresh cause in any manner for the purpose of these cases.

13. Learned Counsel for the petitioners has also submitted that the land owners in the instant cases, are tiny shop keepers and have invested huge amounts for the development of the shops on the lands in question and has also submitted that earlier they had parted away with 50% of their lands on the assurance of the Municipal Commissioner that no further acquisition shall be made from their lands and therefore, this acquisition is causing great hardships to them. He has also submitted that alternative site has also not been provided to them for the purpose of the shops and that their request for priority in allotment of shops in the District Centre has also not been kept in view while issuing the notifications under Sec.4 and 6. These factual submissions, even if true, do not impinge upon the validity of the notifications under Sec.4 and 6 in any manner whatsoever. If at all the petitioners have such grievance, it is open for them to make a request and it will be open for them to approach the Municipal Corporation and Mr.Prashant Desai, learned Counsel

appearing on behalf of the Municipal Corporation has very candidly stated that if any such request is made by any of these land owners, their cases shall be considered sympathetically by the Municipal Corporation for alternative site either in the District Centre or anywhere else.

14. We do not find any infirmity in any of the impugned notifications. There is no merit in these two Special Civil Applications. Both of these Special Civil Applications are hereby rejected. The notice issued in each of these Special Civil Applications is hereby discharged. In the facts and circumstances of these cases, no order as to costs.

(M.R. Calla, J.)

(J.R. Vora, J.)

Sreeram.